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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/088,243 | 06/18/2002 | Jorn Ronvig | 12845.5USWO | 9387 |
| 23552 | 7590 | 04/08/2004 | EXAMINER | |
| MERCHANT & GOULD PC P.O. BOX 2903 MINNEAPOLIS, MN 55402-0903 | | | AL NAZER, LEITH A | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2828 | |

DATE MAILED: 04/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|--------------------------------------|--------------------------------------|--|
| Office Action Summary | Application No. 10/088,243 | Applicant(s) RONVIG ET AL. | |
| | Examiner Leith A Al-Nazer | Art Unit 2828 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 June 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>18 June 2002</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities: Reference numbers 103 and 104, shown in figures 4 and 5, are not addressed in the specification.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 17-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 17 recites a method for treating an animal for a laser light treatable disease.

However, the claim fails to recite the various steps that make up the treatment method.

Therefore, the claim is vague and indefinite.

Claim 20 recites the “use of a laser apparatus...” This claim is vague and indefinite.

Specifically, it is unclear what the applicant is attempting to claim. For example, is the claim an apparatus claim or a method claim?

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. Claims 1 and 3-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baldwin et al EP 0 786 837 in view of Johnston et al '787.

With respect to claims 1, 3, 7-10, and 16-20, Baldwin teaches a laser light emitting optical system for emitting light to a surface, the laser light emitting system comprising a laser diode (101); a power stabilizing system (125-130) for stabilizing the laser light power within a predetermined power interval; a light wave guide cable (column 20, lines 10-15) arranged in the laser light beam path for directing laser light to the surface; and a deflection system (115) for deflecting light reflected from the surface away from the power stabilizing system. Claim 1 requires a collimating lens be arranged in the laser light beam path. Collimating lenses are well known in the art and are often placed in beam paths in order to collimate laser beams, as is

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evidenced by Johnston (column 5, lines 59-63). At the time of the invention, it would have been obvious to one having ordinary skill in the art to utilize a collimating lens in the beam path of the laser diode taught by Baldwin. The motivation for doing so would have been to collimate the laser beam before it reaches the surface it is directed towards.

With respect to claim 4, Baldwin teaches the power stabilizing system comprising absorbing means (111) for absorbing light emitted from the laser light emitting system.

With respect to claim 5, Baldwin teaches the absorbing means being a photo diode (column 8, lines 30-45).

With respect to claim 6, Baldwin teaches the deflection system comprising a transmission/reflection mirror provided obliquely to the optical axis (figure 2A).

With respect to claims 11-13, Johnston teaches a guide light emitting optical system (46; figure 1) for emitting light to the surface to be treated.

With respect to claim 14, Baldwin teaches the power stabilizing system (125-130) and the deflection system (115) being arranged adjacent in a housing (figure 2A).

With respect to claim 15, Johnston teaches the housing further comprising a guide light emitting optical system (46; figure 1).

7. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Baldwin et al EP 0 786 837 in view of Johnston et al '787, as applied to claims 1 and 3-20 above, and further in view of Jewell et al '796.

Claim 2 requires the laser light emitting optical system comprises a laser diode emitting light within 600-1000 nm. Such laser diodes are common in the art, as is evidenced by Jewell

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(column 2, lines 5-11). At the time of the invention, it would have been obvious to one having ordinary skill in the art to take the system of Baldwin and utilize a laser diode emitting light in the range of 600-1000 nm. The motivation for doing so would have been to obtain a laser diode that emitted light at a desired frequency range; for example, a frequency range that is safe for medical purposes.

Citation of Pertinent References

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patents and patent applications further show the state of the art with respect to laser systems utilizing deflection devices in the beam path:

- a. UK Patent Application GB2,144,561 A to Burr et al.

Communication Information


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leith A Al-Nazer whose telephone number is 571-272-1938. The examiner can normally be reached on Monday-Friday 7:30am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Don Wong can be reached on 571-272-1834. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

LA


Don Wong
Supervisory Patent Examiner
Technology Center 2800